

1 IN THE UNITED STATES DISTRICT COURT

2  
3 FOR THE EASTERN DISTRICT OF VIRGINIA

4 RICHMOND DIVISION

5 KATHY STEELE, Administrator of the Estate  
6 of Robert David Steele

7 -and-

8 EARTH INTELLIGENCE NETWORK

9 Plaintiff,

10 vs.

11 JASON GOODMAN

12 Defendant

Case No.: 3:21-cv-00573-JAG

**MOTION SEEKING LEAVE TO FILE  
INTERLOCUTORY APPEAL AND TO  
STAY PROCEEDINGS PENDING  
JUDGMENT**



13  
14 Defendant Jason Goodman ("Goodman") by and for himself pro se, respectfully moves  
15 the Court for leave to file an interlocutory appeal pursuant to 28 U.S. Code § 1292(b) by and  
16 with the attached form Notice of Appeal from the United States Court of Appeals for the Fourth  
17 Circuit. Goodman seeks interlocutory judgment on this Court's order issued April 27, 2023  
18 (ECF No. 85) because it involves a controlling question of law as to which there is substantial  
19 ground for difference of opinion and an immediate appeal from the order would materially  
20 advance the ultimate termination of this litigation.  
21

22 **INTRODUCTORY STATEMENT**

23 28 U.S. Code § 1292(b) grants District Court Judges the authority to issue an order  
24 permitting interlocutory appeal of an order or judgment, when that judge "shall be of the opinion  
25 that such order involves a controlling question of law as to which there is substantial ground for  
26 difference of opinion and that an immediate appeal from the order may materially advance the  
27 MOTION SEEKING LEAVE TO FILE INTERLOCUTORY APPEAL AND TO STAY  
28 PROCEEDINGS PENDING JUDGMENT - 1

1 ultimate termination of the litigation.” Granting an interlocutory appeal does not automatically  
2 stay proceedings in the district court, but proceedings may be stayed should the requisite judges  
3 so order. Goodman now seeks leave of the Court to grant an order for interlocutory appeal and  
4 to stay these proceedings including discovery pending judgment from the Fourth Circuit.  
5

### 6 ARGUMENT

7 On November 16, 2021, the Court acted within its discretion by allowing Kathy Steele  
8 (“Steele”) executor of the estate of Robert David Steele, (“RDS”) to substitute as plaintiff. The  
9 Court proceeded ultra vires when it appointed Steele as a director, receiver, or surrogate to the  
10 board and allowed her to act on behalf of tax-exempt public charity Earth Intelligence Network  
11 (“EIN”) despite her being disqualified pursuant to the by-laws, articles of incorporation and the  
12 Virginia Nonstock Corporations Act. At the time of the substitution, among other claims, the  
13 Court was considering an unauthorized use of name and picture claim. This raised questions of  
14 property rights and pecuniary damage to RDS’ estate. It is not denied that Steele is the executor  
15 of RDS’ estate and had a right to defend it. Even if the Court has legal authority to appoint a  
16 receiver or surrogate to EIN’s board, it must be someone who qualifies as a director by the laws  
17 which EIN is organized in order for it to maintain standing pursuant to FRCP Rule 17(b)(2).  
18

19 Because the Court has rested on its decision citing only cases in which executors or heirs  
20 had standing to defend property rights and not defamation claims, and because the Fourth Circuit  
21 has upheld that defamation claims are only cognizable when they pertain to living parties, there  
22 is substantial ground for difference of opinion. The Fourth Circuit must determine if dismissal of  
23 plaintiffs’ unauthorized use of name and picture claims caused plaintiffs to lose standing with  
24 regard to the remaining defamation claims. The Court has not cited any law or legal precedent  
25  
26  
27

28 MOTION SEEKING LEAVE TO FILE INTERLOCUTORY APPEAL AND TO STAY  
PROCEEDINGS PENDING JUDGMENT - 2

1 that allows a defamation claim to survive the death of the original claimant giving substantial  
2 ground for difference of opinion and the need for a determination by the Appellate Court.

3 The Fourth Circuit has already decided in Carroll v City of Westminster that heirs or  
4 executors may not continue defamation cases for deceased parties (ECF No. 87 page 2 line 20).  
5 The Court has not cited another case or ruling that guides this matter, but it has decided in favor  
6 of the plaintiffs to wrongly continue the case. The Fourth Circuit must determine if the District  
7 Court acted ultra vires when it construed a defamation claim maintained by an executor of a  
8 deceased party as cognizable in the Commonwealth of Virginia and sufficient to continue the  
9 case. The Fourth Circuit must further determine if the Court acted ultra vires in appointing a  
10 legally disqualified director as the receiver or surrogate to the board of directors of EIN.

### 13 CONCLUSION

14 In the interest of judicial efficiency, to answer the controlling questions of law to which  
15 there is substantial ground for difference of opinion, to serve justice and for any other reason that  
16 the Court may find, the Court should grant an order for an interlocutory appeal in the Fourth  
17 Circuit Court of the United States on the ruling issued April 27, 2023 (ECF No. 85) and stay  
18 these proceedings including discovery, pending a decision from the Appellate Court.

21 Signed this 5<sup>th</sup> day of May 2023

22 Respectfully submitted,



24 Jason Goodman, Defendant, Pro Se  
25 252 7<sup>th</sup> Avenue Apt 6s  
26 New York, NY 10001  
27 (323) 744-7594  
truth@crowdsourcethetruth.org

28 MOTION SEEKING LEAVE TO FILE INTERLOCUTORY APPEAL AND TO STAY  
PROCEEDINGS PENDING JUDGMENT - 3